THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.5103 OF 2006

Dated: 16-03-2006

Between

Syed Ahmed, S/o. Syed Saber,

Occ: Pvt. Service, R/o. H.No.22-1-17/4,

Heena Villa, Darrushefa, Hyderabad

and another.

...PETITIONERS

AND

The Commissioner,

Municipal Corporation of Hyderabad,

Having office at Tank Bund Road,

Hyderabad.

...RESPONDENT

ORDER:

Petitioners seek a Writ of Mandamus to declare the refusal on the part of the respondent to receive application, proposed plans and construction fee from them to issue permit to enable them raise construction at their house bearing M.C.No.16-9-16, admeasuring 297 sq. yards situated at Seetarambagh, Old Malakpet, Hyderabad as illegal and arbitrary.

Learned counsel for the petitioners submits that the petitioners are the absolute owners of

the plot of land with structure bearing M.C.No.16-9-16 admeasuring 297 sq. yards situated at Seetaram Bagh, Old Malakpet, Hyderabad. He further submits that one
Sri B. Maruthi Rao Chauhan purchased the said plot through a registered sale deed vide document No.2822 in the year 1975 and
he, in turn, sold the said land with a constructed house in favour of the petitioners vide registered sale deed No.405 of 2004 and delivered possession. While so, when the petitioners approached the respondent to obtain construction permission to carry out alterations and additions in the existing structure the respondent refused to receive the application and further refused to receive the construction permit fee on the pretext that the petitioners have not filed no objection certificate from the revenue authorities and also the petitioners were advised to obtain TSLR certificate from the office of the Collector, Hyderabad.

The issue raised in this writ petition has been dealt by this Court in several judgments and held in the case of **DISTRICT COLLECTOR, HYDERABAD v. N. KRISHNA MOHAN** that under the rules and
bye-laws of Hyderabad Municipal Corporations Act, 'No objection Certificate' (NOC) from the Collector is not required to be obtained and obtaining NOC arises only when law presupposes.

When there is no statutory provision, which compels the respondent – corporation to insist a person seeking permission to construct a building to obtain and produce the NOC from the Collector, the action of the respondent – corporation insisting upon the petitioners to obtain NOC is illegal and unsustainable. Accordingly, the respondent is directed to receive the application of the petitioners without insisting upon NOC from the Collector.

The writ petition is accordingly disposed of.

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V. ESWARAIAH, J

March 16, 2006

Note: Furnish C.C. of the order by 18.03.2006

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DSK